



MULTISTATE TAX COMMISSION

## MINUTES OF EXECUTIVE COMMITTEE MEETING

Rosen Centre Hotel  
9840 International Drive  
Orlando, Florida

Thursday, November 8, 2018  
8:30 a.m. to 12:00 noon Eastern Time

### I. Welcome and Introductions

Chair John Valentine, Utah, convened the meeting at 8:30 a.m. eastern time and asked those in attendance to introduce themselves. The following people attended the meeting:

Holly Coon	Alabama Department of Revenue
Christy Vandevender	Alabama Department of Revenue
Deanna Munds-Smith	Arkansas Department of Finance and Administration
Brendon Reese	Colorado Department of Revenue
Keith Richardson	District of Columbia Office of Tax and Revenue
Ken Roberts	Idaho State Tax Commission
Phil Skinner	Idaho State Tax Commission
Adam Humes	Iowa Department of Revenue
Alana Stamas	Iowa Department of Revenue
Renee Nacrelli	Maryland Office of the Attorney General
Dee Wald	North Dakota Office of State Tax Commissioner
Nia Ray	Oregon Department of Revenue
Tommy Hoyt	Texas Comptroller of Public Accounts
Nancy Prosser	Texas Comptroller of Public Accounts
John Valentine	Utah State Tax Commission

Gil Brewer	Washington State Department of Revenue
Chris Barber	Multistate Tax Commission
Richard Cram	Multistate Tax Commission
Lila Disque	Multistate Tax Commission
Keith Getschel	Multistate Tax Commission
Brian Hamer	Multistate Tax Commission
Helen Hecht	Multistate Tax Commission
Greg Matson	Multistate Tax Commission
Jeff Silver	Multistate Tax Commission
Marshall Stranburg	Multistate Tax Commission
Nikki Dobay	Council on State Taxation
Pilar Mata	Tax Executives Institute

The following people were on the phone: John Ficara, New Jersey Division of Taxation; Dan Armer, New Mexico Taxation and Revenue Department; Dale Steager, West Virginia State Tax Department; Mark Morton, West Virginia State Tax Department; Elliott Dubin, Multistate Tax Commission; Wendy Margolis, Multistate Tax Commission; Tom Shimkin, Multistate Tax Commission; and Bill Six, Multistate Tax Commission.

Chair Valentine confirmed the presence of a quorum.

## **II. Initial Public Comment Period**

There were no comments at this time.

## **III. Approval of Minutes of Executive Committee Teleconference Meeting on September 12, 2018**

Nancy Prosser, Texas, moved for approval of the minutes as written. The motion was approved by voice vote.

## **IV. Report of the Chair**

Chair Valentine thanked those in attendance for their participation and for their efforts to attend MTC meetings. In particular, he thanked those working on the marketplace

seller issue, which he said will become increasingly important. He spoke briefly on this issue and emphasized its growing role in state taxation.

## **V. Report of the Treasurer**

- A. Financial Report for the Period July 1, 2018 – September 30, 2018
- B. Approval of audited financial statements as reported in the independent auditor report for fiscal year July 1, 2017 – June 30, 2018

Ms. Prosser presented on behalf of Glenn Hegar. She referred the committee to the financial report posted online and stated there was nothing of note. Dee Wald, North Dakota, moved to approve the financial report. The motion passed by voice vote. Ms. Prosser also stated there was nothing to emphasize in the financial statements. Ms. Wald moved to approve the audited financial statements. The motion passed by voice vote.

## **VI. Report of the Executive Director**

Greg Matson, Executive Director, reported that the Commission has started off with a good fiscal year. He thanked those in attendance and the MTC staff, and then turned the floor over to the individual committees for an update on organizational and staff activities.

## **VII. Committee Reports**

### **A. Audit Committee**

Keith Getschel, Joint Audit Program Director, said there had been a very good turnout in Boston at the annual meeting. The committee continues to offer trainings and updates on SALT issues at the meetings, and has noticed increased participation.

### **B. Litigation Committee**

Helen Hecht, General Counsel, pointed out a change in how the committee does litigation meetings and attorney training. While previously these took place twice a year, they will now happen three times per year. MTC staff is also working on expanding the training program.

### **C. Nexus Committee**

Christy Vandevender, Chair of the Nexus Committee, gave a summary of recent activity and noted that the committee had made updates to the standard voluntary disclosure procedures based on the assumption that states will be moving toward minimum sales volume/number of transactions

thresholds for nexus. Richard Cram, National Nexus Program Director, emphasized his appreciation for his staff.

- D. State Intercompany Transactions Advisory Service Committee  
Marshall Stranburg, Deputy Executive Director, stated that there is hoped to have an informational and training session scheduled soon.
- E. Strategic Planning Steering Committee  
Ms. Prosser gave an update on the purpose and activities of the committee and encouraged greater participation. She thanked Mr. Matson and Mr. Stranburg for their help and emphasized her appreciation for everyone's efforts in this transitional year.
- F. Uniformity Committee  
Holly Coon, Chair of the Uniformity Committee, stated they have met twice recently. The sales and use tax information reporting model has been tabled and based on recent jurisprudence she recommended withdrawal of the sales and use tax nexus model adopted in 2016. Ms. Wald asked whether there could be a renewed need for the model in the event there is federal preemption of *Wayfair*. There was general agreement. The Chair recommended holding off on action pending the Sensenbrenner bill. With no motions, the Chair accepted the general recommendation to hold off on action for both models.
- G. Other Committee Business (if any)  
There was no other committee business.

## **VIII. Uniformity**

- A. Hearing Officer Report on Model Uniform Statute and Regulation for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments

Ms. Hecht presented the hearing officer report. She noted that the Minnesota Department of Revenue had pointed out that some states may lack sufficient authority under their law to impose equitable apportionment or challenge structures that lack economic substance. She agreed with the state that it would be best to add a drafter's note addressing the issue.

There were no questions for Ms. Hecht. Mr. Matson noted if this is moved to the next step a special commission meeting would be scheduled for adoption, since time is of

the essence in this matter. Ms. Prosser moved to accept the hearing officer's recommendation and move it to a Bylaw 7 survey and to expedite any further consideration by the Executive Committee. The motion passed by unanimous voice vote.

**B. Other Uniformity Matters (if any)**

There were no other uniformity matters.

**IX. Federal Issues with State Tax Implications**

Thomas Shimkin, Legislative Counsel and Director, reported on recent bills introduced in the 115th Congress, in particular the No Regulation Without Representation bill recently introduced by Rep. Sensenbrenner. The bill is being put forward by proponents as preventing states from collecting taxes across state lines and forbids states from making regulations that would have any effect on other states' commerce. This clearly would create problems between the states. Ken Roberts, Idaho, had a few questions regarding the Tax Cuts and Jobs Act, which Mr. Shimkin also addressed over the course of his presentation.

**X. Upcoming Meetings & Events**

Mr. Matson reminded those in attendance to mark their calendars for the 2019 Spring Committee Meetings, April 23 to 26, 2019, in Denver, Colorado. He also noted that the 52<sup>nd</sup> Annual Conference & Meetings would take place on August 5 to 8, 2019, in Boise, Idaho.

----- CLOSED SESSION -----

**XI. Consideration of Confidential Matters during Closed Session**

----- PUBLIC SESSION RECONVENED -----

**XII. Resumption of Public Session and Reports from Closed Session (if any)**

There were no reports from the closed session, and no further business.

**XIII. Adjournment**

The meeting adjourned at 10:14 a.m. through unanimous consent.